IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH JAIPUR.

D.B. SPECIAL APPEAL (WRIT) NO.903/2007.
In
S.B. CIVIL WRIT PETITION NO.3195/2007.

Municipal Board Pushkar, through Executive Officer.

.....Appellant.

Versus

1.Saffuddin S/o Gaffar Khan, Pinaron Ki Gali, Bari Basti, Ajmer.

2.Judge, Labour Court and Industrial tribunal, Ajmer.

.....Respondents

Date of Order:- July 17, 2007.

PRESENT

HON'BLE MR.JUSTICE R.M. LODHA

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. Kedar Nath Gupta for the appellant.

Oral Order:- (Per R.M. Lodha, J.)

Mr.Kedar Nath Gupta, counsel for the appellant contends that the award of the Labour Court, Ajmer passed on 1/3/2007 is

legally unsustainable in view of the judgment of the Supreme Court in the case of Secretary, State of Karnataka Vs. Uma Devi (2006) SCC 4 p.1 and that for the employment in the Rajasthan Municipal Council, Rajasthan Municipality Class-IV Service Rules, 1964 were required to be followed which was not done while giving employment to the respondent No.1 and, therefore, his termination w.e.f. 24/1/2002 could not have been bad in law. We would submit that the Single Judge ought to have interfered with the award of the labour court in view of the submission noticed above.

2. The submissions of the counsel for the appellant do not appeal us. It is not in dispute that the present appellant did not choose to appear before the labour court

after Reference was made by the appropriate government and notice was given to him. In the Statement of Claim filed by the workman, specific averment was made that he was employed by the Municipal Council Pushkar w.e.f. 1/6/1998 for a salary of Rs.1144/- per month. That the workman worked continuously with the Municipal Council Pushkar for a period from 1/5/1998 to 24/1/2002. That he worked for 240 days with Municipal Council Pushkar was also asserted and that without following any procedure provided under Section 25F of the Industrial Disputes Act, 1947, his services came to be terminated. The aforesaid facts averred in the Statement of Claim remained un-controverted, un-denied and un-traversed for want of any reply on behalf of the appellant. In the facts and circumstances of the case, the judgment of

the Supreme Court in the case of Secretary, State of Karnataka Vs. Uma Devi is not attracted. There was no foundation led by the appellant before the labour court that the workman was appointed on daily wages or on contract basis.

3. The view of the labour court therefore, does not suffer from any legal infirmity. Dismissal of the writ petition by the Single Judge cannot be faulted.

4. Special appeal is dismissed in limine.

MOHAMMAD RAFIQ, J. **R.M. LODHA, J.**

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Whether this judgment / order is to be reported in Law Journal/s : Yes/No